IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 7234 of 2004

Between:

A.P.Pollution Control Board, 2nd Floor, Maitrivanam, HUDA Complex, Hyderabad, rep.by its Member Secretary.

..... PETITIONER

AND

M/s Madharam Dolomite Mine Rashtriya Ispat Nigam Ltd. Singarenu Mandal, Khmmam District,
rep.by its Dy.Chief Manager (Mines)

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ, Order or Direction more particularly one in the nature of Writ of Certiorari to call for the records leading up to and inclusive of the order in Appeal No.25/2003, dated 17-02-2004 passed by the Hon'ble Appellate

Authority Constituted under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981, quash the same as illegal and contrary to the mandatory provisions of the Environment Pollution (Protection) Act, 1986 and the Environment (Protection) Rules, 1986.

Counsel for the Petitioner : MR.S.V.BHATT

Counsel for the Respondent : MR. V. RAVINDER RAO.

The Court made the following :

ORAL ORDER:

(per Hon'ble The Chief Justice)

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1 . A.P. Pollution Control Board has filed this writ petition questioning the order passed on 17.02.2004 by the Appellate Authority under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. Appeal was preferred by the respondent against the consent order dated 06.01.2003 passed by the Pollution Control Board specifying the ambient air quality standards. Appeal was allowed and that is how the Pollution Control Board is questioning the said order.

2 . Having heard counsel for the parties and gone through the impugned order, we are of the view that the Appellate Authority has not rightly examined the questions arising for determination in the appeal. It has also failed to examine the question as to how and in what manner the standards prescribed by the Department of Coal and Mines, Government of India, are applicable while dealing with the provisions of Environment (Protection) Act, 1986. Appellate Authority has also failed to examine the effect of Section 2 clause

(G) and Sections 6 and 7 of Environment (Protection) act, 1986, read with Rules framed thereunder. Legality and validity of the order passed by the Board has to be examined only with reference to the orders or directions issued under the provisions of the relevant bye-laws or environmental laws. As such, the order passed by the Appellate Authority is vitiated.

3. In the result, writ petition is allowed. Impugned order is set aside with direction to the Appellate Authority to hear and decide Appeal No.25 of 2003 afresh in accordance with law. No costs.

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DEVINDER GUPTA. C.J.,

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M. NARAYANA REDDY. J.,

Dated: 16.12.2004.

VRK.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, The Chief Justice on this Thursday the Sixteenth day of December, Two thousand and Four.

To

1. The Appellate Authority under Water (Prevention & Contlrol of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981, H.No.6-1-69/2/1, Lakidikapul, Hyderabad – 500 004.

2. The Deputy Chief Manager (Mines), M/s Madharam Dolomite Mine Rashtriya Ispat Nigam Ltd., Singarenu Mandal, Khammam District.

3. 2 CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE M. NARAYANA REDDY.

W.P.NO. 7234 OF 2004.

(Order of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 16.12.2004.

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